

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

Case No: 1:21-cv-00012

Brandy Suckley, Reannan Suckley,  
Natasha Calderon, Shoghi Farr, Blake Ish,  
Jyl Albertson, Mathew Baumstark, Danika  
Owan, Doc Ritchie, Lynette Cole-Perea,  
Manuel Perea, Emily Holly, and Bryan  
Fleming,

Plaintiffs,

vs.

The City of Williston, North Dakota,

Defendant.

**AFFIDAVIT OF TATE CYMBALUK**

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STATE OF NORTH DAKOTA )  
 ) SS.  
COUNTY OF WILLIAMS )

I, Tate Cymbaluk, being first duly sworn, deposes and states as follows:

1. I am an elected member of the Williston City Commission.
2. My role on the City Commission is – in part – to be the “Police Commissioner.”

This means that the City’s police department is within my portfolio. I am the City Commissioner with whom the Chief of Police has direct contact on matters that do not require the full board’s consideration.

3. The City Commission passed Ordinance No. 687 in 1987 which made it unlawful to possess a Pit bull dog within the City as shown in Doc. No. 28-1. During my time as an elected City Commissioner, it has always been illegal to possess a Pit bull within the City limits subject to exceptions in § 4-90.

4. I own dogs and consider myself to be a dog lover; however, I recognize there is a substantial body of information that supports banning Pit bulls within the City. Specifically, as shown in the studies attached to the Expert Reports of Dr. Golinko and Ron Berman, there are numerous studies which indicate Pit bulls are more likely to attack and cause serious injuries than other breeds of dogs. In addition to this body of information, our community has recently been shaken by a highly publicized vicious Pit bull attack, and there has also been substantial support for keeping the ordinance expressed to me by numerous members of our community.

5. During my time as a City Commissioner, I have been approached by numerous members of the community who have requested the ban on Pit bull dogs remain in place to protect the health, safety and welfare of the community.

6. On July 1, 2019, a group of Pit bulls attacked children and their caretaker on the Rickard Elementary playground in Williston. This attack was reported by numerous media outlets including - but not limited to - the Williston Herald, KFYZ TV, KEYZ 660 AM. Attached hereto as Exhibit # 1 is a true and correct copy of the article which appears on the Williston Herald's website explaining the events. Attached hereto as Exhibit # 2 is a true and correct article which appears on the KFYZ TV website. Attached hereto as Exhibit # 3 is a true and correct article which appears on the KEYZ 660 AM website.

7. The Rickard Elementary School Playground Pit bull attack caused what appeared to be serious and graphic injuries. This is consistent with the substantial information I have reviewed regarding the dangers of Pit bulls.

8. Subsequent to the July 1, 2019, Pit bull attack, I received a July 3, 2019, email from Tracy Ditsworth Kuznia who indicated to be the great aunt of the children who fell victim to the

attack. The July 3, 2019, email had an attached letter which set forth her understanding of the events that transpired at the Rickard Playground on July 1, 2019. Her letter questioned why the Pit bulls were still in Williston in light of the City's ban. Among other things, she opined "the blame for this attack falls squarely on your shoulders as the Mayor, Chief of Police and City Commissioners. Obviously, the laws are NOT being enforced and the public is NOT being protected." A true and correct copy of the email and letter I received is attached hereto as Exhibit # 4.

9. Upon receipt of Kuznia's email I spoke with Mayor Klug and Police Chief Peterson. We determined that I would call Kuznia as we believed it was the right thing to do and explain to her that the City takes this issue very seriously. I called Kuznia on July 3, 2019, and explained the City does have an ordinance prohibiting Pit bulls within city limits. I further explained that we will deal with the Pit bull issues in town and follow the necessary legal process. A true and correct copy of my email correspondence relating to these conversations is attached hereto as Exhibit # 5.

10. Based not only on my knowledge of the Rickard Elementary playground attack, but on the plethora of information indicating Pit bulls are more aggressive and cause more serious injuries than other breeds, and the public support for the City's Pit bull ban, it is my opinion that the City's prohibition on possessing Pit bulls in the City limits codified as § 4-89 is necessary to protect the health, safety, and welfare of the citizens within Williston.

11. Further, it is my opinion that as a City Commission, we owe a duty to our constituents to defend attacks on ordinances implemented to protect the health, safety, and welfare of our citizens. The prohibition on Pit bull dogs is not something I take lightly as a dog lover;

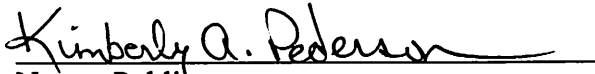
however, based on the available information and my own personal knowledge, I believe that § 4-89 is necessary to further the protection of the health, safety, and welfare of our citizens.

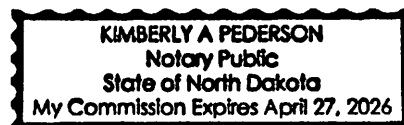
12. As a Commissioner, it is my belief that we need to maintain an open mind. In fact, we have approved amendments to § 4-90 in an attempt to ensure compliance with both State and Federal law. However, the evidence I have reviewed in opposition to the City's Pit bull ban does not persuade me that the City's prohibition on Pit bull dogs fails to serve a legitimate purpose to protect the health, safety, and welfare of our citizens. If I were persuaded that our Pit bull ordinance no longer served a purpose in protecting our Citizens, I would be in favor of amending or repealing the ordinance. However, based on the available information, it is my belief that the City's Pit bull ordinance is in the best interests of our community.

Dated this 7<sup>th</sup> day of ~~April~~<sup>June</sup>, 2022.

By   
Tate Cymbaluk

On this 7<sup>th</sup> day of June, 2022, before me personally appeared Tate Cymbaluk, known to me to be the person described in the within and foregoing instrument and acknowledged to me that he executed the same.

  
Notary Public



**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of June, 2022, a true and correct copy of the foregoing **AFFIDAVIT OF TATE CYMBALUK** was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

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By /s/ Brian D. Schmidt

BRIAN D. SCHMIDT